of any church who acts in good faith. *People* v. *Cole,* 219 N. Y. 98, 113 N. E. 790. It was said in *People* v. *Cole, supra,* where the exemption applied to a person practicing Christian Science healing through prayer, that "healing would seem to be not only the prominent work of the church and its members, but the one distinctive belief around which the church organization is founded and sustained." It follows from the principal case and the other authorities cited that a spiritualist could administer his treatments through the means of the tenets of his religion in so far as they do not authorize the use of drugs or extrinsic methods.

PROPERTY—UNPATENTED CONCEPTS.—Stein sued for an order enjoining Morris and others from using a certain plan for conducting the business of banking and lending money on security, now commonly known as the "Morris Plan," which he claimed to have originated and to own. The idea was to lend money, in small amounts, to borrowers who should take out an amount of stock in the company equal to the amount of their loans. This stock was to be held by the company as security for the loan and the borrower was to make periodic payments upon the stock. This when fully paid for provided a means of discharging the loan obligation. Stein alleged that he, as originator, had communicated this plan in detail to Morris who had put it into profitable use for his own purposes. *Held,* that the plan used by Morris was not in fact the same as that admitted to have been suggested to him by the plaintiff, and that, furthermore, the plaintiff's scheme was not itself original with him but had long been in operation in that part of Europe from which he had emigrated. The court said further that even if Stein had originated the Morris plan, "he could not have a property right in such a method or idea for conducting business without any physical means or devices for carrying it out. In other words, he could not put such an idea into operation without it at once escaping his own grasp and becoming the property of mankind." *Stein* v. *Morris* (Va. 1917), 91 S. E. 177.

The case is interesting because of the comparative infrequence of claims of ownership in an idea, outside of the statutes giving such ownership. The quoted dictum of the case in regard to such ownership at common law is quite in accord with precedent. There is undoubtedly property, or, to avoid question of definition, a right *in rem,* at common law in certain intangible things, such as reputation and the performance of a contract by the promisor without malicious interference by a third party. But there is no recognition of a right *in rem* concerning particular concepts emanating from individual brains, with the possible exception of an author's right to literary production. *Millar* v. *Taylor,* 4 Burr, 2303; *Gayler* v. *Wilder,* 10 How. 477, 502. This is on the ground, apparently, that ownership must be predicated upon the possibility of exclusive possession. "So long as the originator of the naked idea keeps it to himself * * * it is his exclusive property, but it ceases to be his own when he permits it to pass from him. Ideas of this sort in their relation to property may be likened to the interest which a person may obtain in bees and birds, and fish in running streams, which are conspicuous instances of (animals) *ferae naturae.* If the claimant keeps them on his own premises they

become his qualified property, and absolutely his so long as they do not escape. But if he permits them to go he can not follow them." *Bristol* v. *E. L. A. Society,* 52 Hun 161, 5 N. Y. Supp. 131, cited in the principal case. To the same effect are *J. G. Wilson* v. *Rousseau,* 4 How. 646, 673; *Gayler* v. *Wilder,* 10 How. 477; *Morton* v. *N. Y. Eye Infirmary,* 5 Blatch. 116; *Dudley* v. *Mayhew,* 3 Comstock (N. Y.) 9; *Comstock* v. *White,* 18 How. Prac. (N. Y.) 421. It was undoubtedly the purpose of the patent statutes to rectify this condition of the common law and it is quite probable that Stein might have patented his idea had it been new and original with him even though it did not require physical devices for carrying it out. For a discussion of this point see 15 MICH. L. REV. 660.

RAILROADS—INJURY CAUSED BY FIRE TO MUNICIPAL FIREMAN.—A public statute made a railroad liable for damages to person or property from fires set by its locomotives. Plaintiff, a city fireman, was injured in an attempt to extinguish a fire on X's property caused by defendant railroad. *Held,* that the act did not apply to the fireman, but only to those so situated that as to them the operation of the road constituted an extra fire hazard, and the railroad company violated no duty owed the fireman. *Clark* v. *Boston & M. R. R.* (N. H. 1917), 101 Atl. 795.

The statute does not apply in the case of property of a third person in the railroad's charge, but applies only to property in the control of others along its line. *Welch et al.* v. *Concord R. R.,* 68 N. H. 206, 44 Atl. 304; *Bassett* v. *Conn. River R. Co.,* 145 Mass. 129. At common law a fireman injured through defects in the property is not entitled to recover, as he is considered a licensee, and the owner owes him no active duty. *Kelly* v. *Henry Muhs Co.,* 71 N. J. L. 358; *Gibson* v. *Leonard,* 143 Ill. 182, 32 N. E. 182. The proprietor must refrain from wilful or affirmative acts which are injurious. *Lunt* v. *Post Printing & Publishing Co.,* 48 Col. 316, 110 Pac. 203; *Woodruff* v. *Bowen,* 136 Ind. 431, 34 N. E. 1113. Where a fireman called to put out a fire caused by an explosion resulting from defendant's locomotive negligently "kicking" one of its cars, was injured by subsequent explosions, it was held that he could recover, such a situation being within the rule that a licensee has the right to require the proprietor to so conduct himself as not to injure another through his active negligence, for the subsequent explosion was a part of a series of events set in motion by the original act of the company. *Houston Belt, &c. R. Co.* v. *O'Leary* (Tex. Civ. App. 1911), 136 S. W. 601; *Barnett* v. *Atlantic City Electric Co.,* 87 N. J. L. 29, 93 Atl. 108. The plaintiff could not recover in the instant case for his injury. He assumed the risk. His attempt to extinguish the fire, and not the company's negligence, was the proximate cause of his injury. *Seale* v. *Gulf C. & S. F. Ry. Co.,* 65 Tex. 274.

SPECIFIC PERFORMANCE—CONTRACT TO DEVISE—HARDSHIP ON INNOCENT THIRD PARTIES.—On a promise to the plaintiffs' father that they should succeed to the promisor's property, the plaintiffs, when children, went to live with him. He was then childless, but thirty years later had a child by a second wife. To the wife and child, who knew nothing of the agreement,